



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21546 of 2021

A.K.C.Rajendran

...Petitioner

Vs.

1. The District Registrar (Admn),
Office of Registrar,
Nagapattinam.

2. The Sub Registrar,
Thiruthuraipoondi,
Thiruvavarur District.

3. A.K.C.Ravindran

4. A.K.C.Devendran

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent namely the Refusal Check Slip dated 07.09.2001 and quash the same and further direct the 2nd respondent to register the final decree passed in I.A.No.88 of 2013 for O.S.No.25 of 2012 dated 04.02.2014 on the file of the Court of Principal District Judge, Thiruvavarur.

For Petitioner : Mr.A.Muthukumar

For respondents : Mr.Yogesh Kannadasan
for R1 and R2
Government Advocate

ORDER

This writ petition has been filed for a certiorarified mandamus to quash the order of the second respondent viz., the Refusal Check Slip dated 07.09.2001 and further direct the second respondent to register the Final Decree dated 04.02.2014 passed in I.A.No.88 of 2013 in O.S.No.25 of 2012 passed by the learned Principal District Judge, Thiruvavarur.



2.The case of the petitioner is that the respondents 3 and 4 are his brothers and since they are parties to the decree, he made them as parties to this writ petition and they are only formal parties herein and they cannot have any objection for registration of the decree.

3.The petitioner submits that he instituted O.S.No.25 of 2012 before the Principal District Judge, Thiruvarur for partition and separate possession of his 1/3rd share in the suit properties against his brothers viz., the respondents 3 and 4 herein and a preliminary decree for partition has been passed on 30.04.2013 and pursuant to the said preliminary decree, he filed I.A.No.88 of 2013 for passing Final Decree.

4.The petitioner further submits that the Trial Court appointed an Advocate Commissioner for suggesting mode of division of the properties, the Advocate Commissioner filed his report and plan.

5.According to the petitioner, the learned Principal District Judge, Thiruvarur passed a Final Decree in I.A.No.88 of 2013 in O.S.No.25 of 2012 on 04.02.2014, the said decree has become final as there is no appeal filed against it.

6.The petitioner submits that he applied for a copy of the Final Decree on 29.04.2014, the same was made ready on 05.05.2014 and delivered to his counsel on 06.05.2014.

7.According to the petitioner, though Thiruvarur is a separate Revenue District, there is no District Registrar for the said District and only the first respondent herein has got jurisdiction as District Registrar for Thiruvarur District and he presented the Final Decree for registration before the second respondent, the second respondent did not entertain the same for registration.

8.The petitioner submits that he filed a petition before the first respondent on 15.07.2021, the first respondent vide his communication dated 16.08.2021 informed him that the second respondent would take appropriate decision with regard to registration.



9.The petitioner further submits that he was asked to submit a draft document before the second respondent and accordingly, he presented the same for registration and the second respondent vide impugned order dated 07.09.2021 refused to register the document on the ground that the document in question viz., the Final Decree ought to have been presented for registration within 4 months from the date of decree or at least within 4 months thereafter.

10.According to the petitioner, there is no limitation for presenting the Court decree for registration, as registration of the Court decree is only optional and not mandatory.

11.The petitioner submits that Courts have repeatedly held that no Registering Authority shall refuse to register any Court decree on the ground of limitation.

12.In support of his contentions, he relied upon a Division Bench judgment of this Court in the case of Sarvothaman Vs. Sub Registrar Oulgaret, Pondicherry reported in 2019 (3) MLJ 517 and would submit that this Court has categorically held that the limitation prescribed in Section 23 of the Registration Act, 1908 cannot apply to a Court decree and also held that proviso to Section 23 of the Registration Act, 1908 does not apply in so far as limitation is concerned for registration of Court decree since it is not a compulsorily registrable document and this Court further held that the limitation period prescribed in proviso to Section 23 of the Act can only be treated as directory and therefore the mandatory requirement of registration of document before 4 months as contemplated under Section 23 of the Act cannot be put against any party, who want to register the court decree or order. Relying upon the aforesaid judgment, the petitioner prayed for allowing this writ petition.

13.The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

14.Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 and perused the materials available on record.

15.It is settled position of law that the Sub Registrar cannot compel the petitioner to register the same within a period of four months and there is no prohibition for register the same as this being a decree of the Court.



16. In view of the above and considering the submissions made by the petitioner, this Court is inclined to set aside the Refusal Check Slip dated 07.09.2021 issued by the second respondent and the writ petition is allowed by directing the respondents to register the decree dated 04.02.2014 passed in I.A.No.88 of 2013 in O.S.No.25 of 2012 passed by the Principal District Judge, Thiruvarur in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

pam

To

1. The District Registrar (Admn),
Office of Registrar,
Nagapattinam.
2. The Sub Registrar,
Thiruthuraipoondi,
Thiruvarur District.
3. The Principal District Judge,
Thiruvarur.

+1cc to Mr.A.Muthukumar, Advocate, S.R.No.52480

+1cc to the Government Pleader, S.R.No.53203

W.P.No.21546 of 2021

AD[co]

NSK 09/11/2021